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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,041	06/24/2003	Steven Alan Lytle	Lytle 22-15-20	2383

7590 09/07/2005

Docket Administrator Agere Systems Inc.
Room 4u533C
4 Connell Drive
Berkeley Heights, NJ 07922-2747

EXAMINER

GHYKA, ALEXANDER G

ART UNIT PAPER NUMBER

2812

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/603,041	Applicant(s) LYTLE ET AL.	
	Examiner Alexander G. Ghyka	Art Unit 2812	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

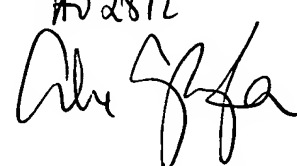
Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

ALEXANDER GHYKA
PRIMARY EXAMINER

Av 2812


Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/Q8)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Applicants' response of 6/24/2005 has been considered and entered. Applicants' arguments have been considered, but they are not persuasive for the reasons as discussed below.

Claim Rejections - 35 USC § 102

Claims 1-9 and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Subramanian (US 6,060,380) for the reasons of record.

Claim Rejections - 35 USC § 103

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Subramanian et al (US 6,060,380) in view of Yang et al (6,162,587) for the reasons of record.

Response to Applicants' Arguments

Applicants' argue that the Subramanian reference does not disclose "photodefining at least one second elongated opening across the at least one trench..". Applicants' point to the Specification and quote "the slit is preferably transverse and perpendicular to the trench, but it may be any angle as long as the slit is not parallel to the trench". In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., transverse and perpendicular to the trench) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

Art Unit: 2812

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). A reasonable interpretation of the word “across the trench” in this particular case could be “through the trench”. The Examiner notes that a second pattern determines a location and size of openings in a second insulating layer that is below the first insulating layer. See column 5, lines 50-55. Moreover, Subramanian discloses metallization structures where the first pattern defines the trench lines within the first insulating layer, and wherein the second pattern define via holes which extend from the trench. See for example column 6, lines 6-12.

Therefore, the Examiner maintains that Subramanian et al anticipate Claims 1-9 and 12-14 for the reasons as discussed above. With respect to the rejection under 35 USC 103, Applicants’ argue the deficiencies of the Subramanian reference. The rejection under 35 USC 103 is maintained for the reasons as discussed above with respect to the Subramanian reference.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 2812

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander G. Ghyka whose telephone number is (571) 272-1669. The examiner can normally be reached on Monday through Thursday during general business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Lebentritt can be reached on (571) 272-1873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AGG
September 1, 2005

ALEXANDER GHYKA
PRIMARY EXAMINER

AV 2812
